



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,822	03/20/2000	Rumiko Kikuta	FUJY 17.159	6311

26304 7590 07/19/2004

KATTEN MUCHIN ZAVIS ROSENMAN
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER

LEE, TIMOTHY L

ART UNIT	PAPER NUMBER
----------	--------------

2662

DATE MAILED: 07/19/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

2

Office Action Summary

Application No.

09/528,822

Applicant(s)

KIKUTA, RUMIKO

Examiner

Timothy Lee

Art Unit

2662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US 6,519,636) in view of Chui (US 6,707,799).

3. Regarding claims 1, 3, and 8, Engel et al. discloses a computer connected to one or more networks through appropriate network interfaces—this computer is used to classify, manipulate, and/or control communications. As shown in Fig. 2, client 160D can include a smart cellular/desktop phone, and the network 130 could be any packet switched network such as the public Internet (an Internet telephone system having an Internet network for transferring voice in the form of a voice packet). See col. 6, lines 15-43. Other “Internet Media” can include images, animation, music, text, pictures, and data, and there are known processes defined by standards like IP, UDP, TCP, and RTP protocols that can augment the packets with the necessary information so that they travel over the packet-switching network to their destination (transferring data in the form of data packets which are transmitted from a data communications terminal). See col. 1, lines 35-50. The network includes access points 140 and routers 110 (a first routing unit for routing). The network also includes a network server 170 that includes such mechanisms as controlling the size of the packets sent to the network and controlling the size at which data is passed to the application. See col. 7, lines 1-13. Trigger events can

Art Unit: 2662

include an event that causes an attempt to send data to the network. See col. 10, line 65- col. 8, line 8. The bandwidth can change during the transmission and the rule can be updated by triggering a modify rule event. See col. 11, lines 24-26. As an example, Engel et al. discloses that if the server realizes that the bandwidth constraints have disappeared (e.g. the client has terminated a voice over IP call with a peer) the rules pertaining to the client can be deleted using a trigger event. Of course, if the system can use a trigger in the event a call ending, it had to have been able to trigger an event in the first place when the call was initiated (a first detecting unit for detecting a transition of a call-out state of the voice terminal). See col. 18, lines 59-64.

4. Engel et al. does not expressly disclose the following: 1) having a packet-assembling unit assemble a control packet to be sent to the router to inform it to change a maximum length of each packet transferred and 2) changing the maximum length of a data packet to the predetermined length.

5. Regarding 1), Chui discloses where the fragmentation frame size is negotiated, so that the smaller of the two fragments is used for fragmentation. See col. 3, lines 51-53. A control message is then sent through the normal data transfer (control packet to inform a change of the predetermined length). See col. 5, lines 46-48. Regarding 2), Chui discloses a fragmentation module that breaks up transmit packets according to the negotiated fragment size, and performs fragmentation per end-to-end fragmentation procedure. See col. 5, lines 28-31. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the teachings from Chui concerning changing a maximum length of packets in the system of Engel et al.. One would have been motivated to do this because the fragmentation function serves to prevent long

Art Unit: 2662

frames from occupying the transmission medium for longer than a maximum latency permitted, particularly when real-time packets like voice packets are being transmitted.

See col. 6, lines 53-61 of Chui.

6. Regarding claim 2, Engel et al. discloses the existence of many routing devices 110 through the network 130. One of these routers could certainly act as a second routing device that routes voice packets while only data packets travel to the first router, depending on destination address (preferentially routing the voice packet to said network...). See col. 20, lines 14-28.

7. Regarding claims 4, 5, 10, and 11, as mentioned previously, Engel et al. discloses that a detecting mechanism exists in order to see when a user has ended a voice over IP call. See col. 18, lines 59-64. Also, Engel et al. discloses this is done so that bandwidth constraints can be removed, and one of the ways of increasing bandwidth back to original levels would be to increase the maximum packet length back to pre-call levels.

8. Regarding claim 6, Engel et al. discloses the use of voice over IP, so an IP protocol is in place and an Internet Protocol packet must be used.

9. Regarding claim 7, Engel et al. discloses that the source computer can transform the continuous voice analog signals into a series of discrete digitally compressed packets (packet assembling unit are provided in a gateway for converting the voice information transmitted from said voice communications terminal into a packet in accordance to IP). Neither Engel et al. nor Chui expressly discloses having both a first and second routing unit in one router for routing IP packets, but it would have been obvious to include two routing units in one router. One of ordinary skill in the art would have been motivated to

Art Unit: 2662

do this because having a second routing unit would provide redundancy in the situation that a first routing unit fails.

10. Regarding claim 9, as mentioned previously, Engel et al. discloses that it is possible to give priority to certain data flows if you use a wildcard character in the unknown value. Using this for the voice packets, they can be given preferential routing treatment (preferentially routing the voice packet). See col. 20, lines 14-29.

11. Regarding claims 12 and 13, Engel et al. discloses that a shaping mechanism determines the maximum size of information that can be passed through the system. This size is based on many factors. See col. 16, line 64-col. 17, line 6. It is evident that this size can also be less than the maximum length possible for a particular packet because it says that the system must be careful in choosing this value for some of the packets will never be sent if the value is chosen to be too small (the predetermined value is smaller than the maximum length of the data packet). See col. 17, lines 7-17.

Response to Arguments

12. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Lee whose telephone number is (703)305-7349. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (703)305-4744. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2662

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLL
Timothy Lee
July 7, 2004

A handwritten signature in black ink, appearing to read 'H. Kizou', is written over the printed name.

HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600